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In re Application of :
Blair et al. :
Application No.: 10/573,666 : DECISION
PCT No.: PCT/GB02/03532 :
Int. Filing Date: 31 July 2002 : ON
Priority Date: 02 August 2001 :
Attorney Docket No.: 762301-1290 : PETITION
For: Telecommunication Interaction Analysis :
:

This is in response to the renewed petition under 37 CFR 1.137(b) filed on 07 September 2006.

DISCUSSION

In a decision mailed on 07 June 2006, the petition filed on 15 March 2006 was dismissed without prejudice because

Regarding requirement (1), the required reply in the form of the basic national fee has not been filed, nor does it appear that petitioner has authorized the basic national fee to be charged to a Deposit Account. Therefore, requirement (1) has not been satisfied.

Regarding requirement (3), the petition includes a statement of unintentional delay. However, in view of the evidence of record, including the Affidavit of Kevin G. Hegebarth, petitioner has not adequately explained the delay in filing the petition and paying the basic national fee between the due date for the basic national fee (02 February 2004) and the time "in January 2006, Andrew discovered the that the above PCT patent application was not filed in the U.S. and requested an explanation from David." More specifically, petitioner has not reconciled the statement (in paragraph 7) that the abandonment was "discovered" in January 2006, with the statement (in paragraph 8) that an "informal cost estimate in filing a petition to revive" was prepared in March 2004. Furthermore, petitioner has not described why he "did not provide him with the confirmatory instructions" in response to the March 2004 cost estimate; in general, petitioner has not described what effect, if any, the March 2004 cost estimate had on the delay in prosecuting this application. Petitioner also states that in "July 2004, David indicated that this application had not been filed in the U.S. because I did not provide him with the confirmatory instructions," but does not explain the delay in prosecuting this application after receiving this indication from David. Moreover, petitioner has not adequately explained the delay between the time the abandonment was allegedly discovered (January 2006) and the filing of the instant petition on 15

March 2006. For all of these reasons, it would not be appropriate to conclude that requirement (3) has been satisfied at this time.

The instant renewed petition includes a fee authorization. Therefore, the "required reply" in the form of the basic national fee is being charged to counsel's Deposit Account No. 20-0778, thereby satisfying requirement (1).

With regard to requirement (3), applicants "respectfully submit that Mr. Hegebarth did not at any time intentionally abandon this application." However, the renewed petition includes a statement that "Mr. Hegebarth perhaps felt that the patent application responsibilities were not as important as the other responsibilities that he was undertaking at the time." In view of this statement, it is not clear whether Mr. Hegebarth may have intentionally deferred taking action with regard to this patent application, in favor of "other responsibilities" which were deemed "more important." To clarify this issue, petitioner should furnish a statement made by Mr. Hegebarth specifically addressing the circumstances surrounding the delay in prosecuting the application, and explaining whether or not any part of the delay was due to consciously choosing to defer action in favor of pursuing other, "more important" matters.

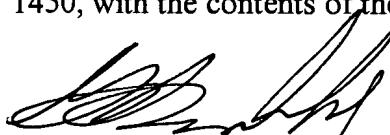
Moreover, petitioner has not adequately addressed (1) why the basic national fee was not paid prior to the preparation of the "informal cost estimate" in March 2004, (2) what role the "informal cost estimate" played in the subsequent delay in payment of the basic national fee, (3) what steps (if any) Andrew Pham took toward making payment of the basic national fee, (4) whether Mr. Hegebarth delegated any responsibility over handling the matter of this patent application to any other person, and (5) whether the delay between January 2006 and the filing of the initial petition in March 2006 was unintentional. Since it is not clear from the present whether the entire delay in filing the basic national fee was unintentional, it would not be appropriate to grant the requested relief at this time.

DECISION

The petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are available.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, P.O. Box 1450, Mail Stop PCT, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.



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